

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 268 of 1997

in

SPECIAL CIVIL APPLICATION No 6447 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SAIYED MUSTAKALI MURTUJA ALI

Versus

STATE OF GUJARAT

Appearance:

MR JS YADAV for Petitioner

MR DA BAMBHANIA, for the Respondents

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE H.L.GOKHALE

Date of decision: 25/03/97

ORAL JUDGEMENT (PER C.K.THAKKER J.)

Admitted. Mr.Bambhania appears and waives
service of notice for admission. In the facts and

circumstances of the case, and with the consent of the parties, this LPA is taken up for final hearing to day.

This LPA is filed against the order passed by the learned Single Judge summarily dismissing the petition on the ground that there was delay of more than one year and that there was no explanation for the delay nor reasons reflected in para 9(G) of the petition can be said to be sufficient cause to explain the delay. We have heard Mr.Yadav, learned counsel for the appellant as well as Mr.Bambhanian, learned Additional Government Pleader for the Respondents.

Looking to the facts, it clearly appears that the petitioner was a lowly paid employee. His services were terminated in the year 1995. It appears that thereafter he had taken some steps but because of his poverty as well as because of some delay on the part of the Advocate in preparation of the petition, delay was caused. In the facts and circumstances of the case, in our opinion, the learned Single Judge was not justified in dismissing the petition merely on the ground of delay. Hence, appeal deserves to be allowed and is accordingly allowed. The petition will now go back and the learned Single Judge will decide the same in accordance with law. We may observe that we are not expressing any opinion on the merits of the matter. Appeal is allowed. No costs.
